

## Internal Revenue Service

Number: **201024001**

Release Date: 6/18/2010

Index Number: 1504.00-00

Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:CORP:B04

PLR-100352-10

Date:

March 04, 2010

### Legend:

Parent =

PRS =

Sub 1 =

Sub 2 =

Sub 3 =

State A =

Date 1 =

Date 2 =

x =

y =

Code X =

Code Y =

Dear

This letter responds to your December 30, 2009 request for a ruling under section 1504(a) of the Internal Revenue Code. The information provided in that letter and in later correspondence is summarized below.

### **Facts**

Parent is a for-profit corporation and the common parent of an affiliated group of corporations that files a consolidated federal income tax return on the basis of a Date 1 fiscal year (the "Parent Group"). Parent indirectly owns all of the stock of Sub 1, which joins in the filing of the Parent Group consolidated return. Sub 1 owns x percent of PRS. The remaining y percent of PRS is owned by Sub 2, an indirect subsidiary of Parent that is not included in the Parent Group. Prior to Date 2, PRS owned the sole membership interest in Sub 3, a State A non-profit, non-stock membership corporation that is taxable for both federal and State A income tax purposes. Sub 3 operates a medical services business and employs physicians who deliver services that are part of the overall business of the Parent Group.

Effective Date 2, PRS assigned to Sub 1 its sole ownership of Sub 3's single membership interest, thereby making Sub 1 the sole member of Sub 3. Also effective Date 2, the Sub 3 articles of incorporation were amended to eliminate an existing prohibition on liquidating distributions being made to Sub 3's sole member, and as

amended, all liquidating distributions must be made to its member, Sub 1. The amendment was reviewed and approved by State A authorities governing non-profits as conforming to Code X.

As a non-profit, medical services membership corporation, Sub 3 is also governed by Code Y, which precludes Sub 1 from having control over decisions relating to the professional practice of medicine (e.g., termination or retention of physicians, credentialing, quality assurance, utilization review, peer review, and the practice of medicine). The board of directors of Sub 3, which must be comprised of physicians, has control over such decisions, while Sub 1 has direct control over all other aspects of Sub 3's business affairs.

### **Representations**

The taxpayer has made the following representations:

- (a) Sub 3 has only a single class of outstanding equity, and Sub 1 is the only person with a legal or beneficial interest in that equity.
- (b) As the sole member of Sub 3, Sub 1 has sole voting power to elect Sub 3's directors (subject to the approval of a majority of the existing directors), to remove Sub 3's directors (including without cause), to unilaterally determine Sub 3's operating budget, to unilaterally appoint Sub 3's officers, and to unilaterally control Sub 3's decision to completely liquidate.
- (c) The only Sub 3 equity voting matter that Sub 1 does not solely control is Sub 3's decision relating to the professional practice of medicine, with Sub 3's board of directors having exclusive control over this matter.
- (d) As the sole member of Sub 3, Sub 1 has sole entitlement to unrestricted legal and beneficial ownership of all the liquidation proceeds of Sub 3.
- (e) The only Sub 3 equity value matter that Sub 1 does not control is entitlement to Sub 3 dividends, with Sub 3 precluded under State A law from paying any such dividends but not restricted from accumulating its earnings for distribution to Sub 1 on complete liquidation.

### **Rulings**

Based on the facts and information submitted and the representations made, we rule that effective as of Date 2, Sub 1's ownership of the Sub 3 equity satisfies the requirements for these two corporations to be affiliated with each other, and therefore Sub 3 is included in the Parent Group (§1504(a) and §1.1502-75(a)(1)).

**Caveats**

We express no opinion about the tax treatment of the transaction under other provisions of the Code and regulations or about the tax treatment of any conditions existing at the time of, or effects resulting from, the transaction that are not specifically covered by the above ruling.

**Procedural Statements**

This ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

In accordance with the power of attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

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Lewis K Brickates  
Chief, Branch 4  
Office of Associate Chief Counsel (Corporate)

cc: